

44

00-R-0778

Entered - 03/29/00 - sb
CL00L0185 - DIANNE C. MITCHELL

CLAIM OF: GLOCK, INC., ARMS TECHNOLOGY,
INC. AND SIGARMS, INC.,
through their attorney,
Frank R. Seigel
Suite 200
99 West Paces Ferry Road, NW
Atlanta, Georgia 30305

For damages alleged to have been sustained as a
result of improper litigation in the State Court of
Fulton County.

THIS ADVERSED REPORT IS
APPROVED

BY: Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

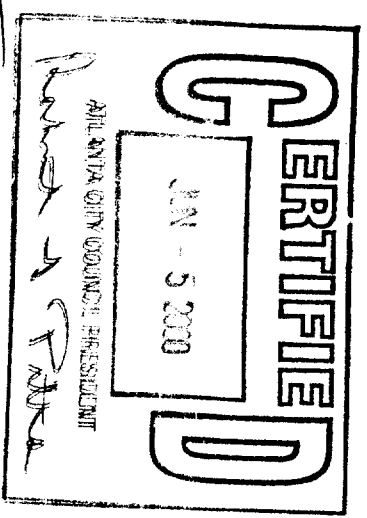
ADVANCE REPORT

COM. Public Safety

DATE 5/30/2000

CHM. City Manager

[Signature]
[Signature]
[Signature]



CERTIFIED
JUN 05 2000

Rosalind Rubens Newell
MUNICIPAL CLERK

ADVERSED BY
CITY COUNCIL JUN 05 2000



**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

**55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103**

June 15, 2000

Frank R. Seigel
Attorney at Law
99 West Paces Ferry Rd., NW
Suite 200
Atlanta, GA 30305

00-R-0778

**RE: Glock Inc., Arms Technology, Inc. and
Sigarms, Inc.**

Dear Attorney Seigel:

I sincerely regret that your clients have been adversely affected by the circumstances raised in their claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on June 05, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0175

Date: May 11, 2000

Claimant /Victim GLOCK, INC., ARMS TECHNOLOGY, INC. AND SIGARMS, INC.
BY: (Atty) Frank R. Seigel
Address: Suite 200, 99 West Paces Ferry Road, NW, Atlanta, Georgia 30305
Subrogation: Claim for Property damage \$ not stated Bodily Injury \$
Date of Notice: 03/20/00 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence not stated Place: State Court of Fulton County
Department Mayor Division
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimants assert that they have been damaged due to "improper, unauthorized and/or abusive litigation. The issues raised by the claimants are currently in litigation in the State Court of Fulton County.

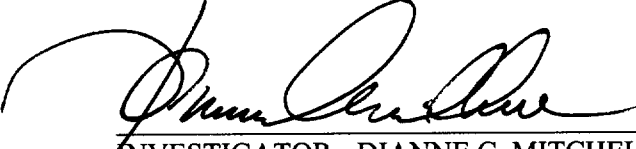
INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

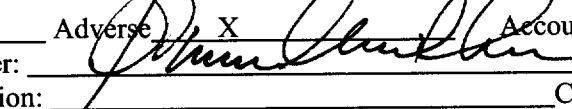
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager:  Concur/date 05-11-00
Committee Action: Council Action

COFER, BEAUCHAMP, STRADLEY & HICKS, LLP

ATTORNEYS AND COUNSELORS AT LAW

SUITE 200

99 WEST PACES FERRY ROAD, N.W.

ATLANTA, GEORGIA 30305-1350

TELEPHONE 404 233-6200

TELECOPIER 404 364-0044

ENTERED - 3-29-00 - SB
00L0185 - DIANNE MITCHELL

Direct Dial No.
(404) 266-3939 Ext. 224

Frank R. Seigel, Esq.
Partner

March 17, 2000

Via Registered Mail and
Certified Mail - Return Receipt Requested

The Honorable William Campbell
Mayor, City of Atlanta
City Hall
55 Trinity Avenue, S.W.
Suite 2400
Atlanta, Ga. 30335

The Honorable Robert L. Pitts
President, Atlanta City Council
City Hall
55 Trinity Avenue, S.W.
Suite 2900
Atlanta, Ga. 30335

RE: City of Atlanta v. Smith & Wesson Corp., et al., State Court of Fulton County,
Civil Action File No. 99VS0149217J
**Ante Litem Notice and Notice of Intent to Assert Claims Against the City of
Atlanta for Abusive Litigation and For Attorney Fees Pursuant to O.C.G.A. §
51-7-84, Because of Atlanta's Improper Lawsuit Brought Against Glock, Inc.,
Arms Technology, Inc. and Sigarms, Inc.**

Dear Mayor Campbell and Mr. Pitts:

Our firm represents Glock, Inc., Arms Technology, Inc. and Sigarms, Inc., as defendants in the above-referenced action. This letter will serve as an ante litem notice and notice of our clients' intention to assert claims against the City of Atlanta, and its Mayor, on the basis that the above-captioned lawsuit brought against our clients constitutes improper, unauthorized and/or abusive litigation. Further, the City of Atlanta, in its lawsuit, has asserted claims with respect to which there exists such a complete absence of any justiciable issue of law or fact that it could not be reasonably believed that a court would accept the claims raised by the City of Atlanta. Our clients will

The Honorable William Campbell
The Honorable Robert L. Pitts
March 17, 2000
Page 2

accordingly seek to recover damages and attorney fees incurred in defense of the City of Atlanta's Lawsuit.

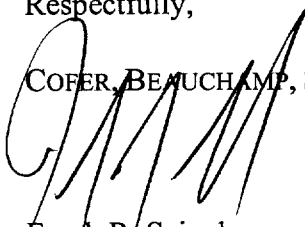
As you are aware, O.C.G.A. § 16-11-184 prohibits the City of Atlanta from attempting to regulate "in any manner, gun shows, the possession, ownership, transport, carrying, transfer, sale, purchase, licensing, or registration of firearms, components of firearms, firearms dealers, or dealers in firearms components." The General Assembly in this same statute makes plain that the authority to bring any regulatory action related to firearms rests exclusively with the General Assembly. In direct contravention, to the provisions of O.C.G.A. § 16-11-184, the City of Atlanta has elected to undertake a regulatory action against Glock, Inc., Arms Technology, Inc. and Sigarms, Inc. by filing the above-referenced lawsuit against these companies.

The United States Supreme Court and the Georgia Court of Appeals have explained that "regulation can be as effectively executed through an award of damages as through some form of preventive relief". San Diego Building Trades Council v. Garmon, 359 U.S. 236, 247 (1959); Motor Co. Ltd. v. Kimbrel, 189 Ga.App. 404 (1988). The City is attempting to regulate the conduct of firearms manufacturers with its improper State Court lawsuit. The Attorney General of Georgia has made plain the City's lawsuit is barred by the Georgia State Constitution and the terms of O.C.G.A. § 16-11-184. Notwithstanding, the City continues to press on with this arbitrary and capricious, regulatory action.

Please be advised that under Georgia law, the City and the Mayor can avoid exposure to damages, including but not limited to attorney fees, if the City's lawsuit is dismissed within thirty (30) days of the mailing of this letter. See O.C.G.A. § 51-7-82. If the lawsuit is not dismissed within thirty (30) days of the mailing of this letter, we will, at the conclusion of the case, seek to recover all attorney fees incurred in the defense of the City's improper lawsuit and any damages we are entitled to recover under Georgia's law.

Respectfully,

COFER, BEAUCHAMP, STRADLEY & HICKS, LLP


Frank R. Seigel

FRS/kd
cc: Service List

RCS# 1981
6/05/00
2:45 PM

Atlanta City Council

Regular Session

CONSENT AGENDA PAGES (1 - 10)

ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y McCarty	Y Dorsey	Y Moore	Y Thomas
Y Starnes	Y Woolard	Y Martin	Y Emmons
Y Bond	Y Morris	Y Maddox	Y Alexander
B Winslow	Y Muller	Y Boazman	NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-O-0662

06/05/00 Council Meeting	
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-0590 2. 00-O-0677 3. 00-O-0712 4. 00-O-0752 5. 00-O-0592 6. 00-O-0593 7. 00-O-0594 8. 00-O-0625 9. 00-O-0666 10. 00-O-0673 11. 00-O-0722 12. 00-O-0724 13. 00-O-0725 14. 00-O-0730 15. 00-O-0589 16. 00-O-0713 17. 00-O-0714 18. 00-O-0715 19. 00-O-0716 20. 00-R-0753 21. 00-R-0794 22. 00-R-0761 23. 00-R-0719 24. 00-R-0763 25. 00-R-0764 26. 00-R-0762 27. 00-R-0765 28. 00-R-0766 29. 00-R-0768 30. 00-R-0769 31. 00-R-0770 32. 00-R-0771 33. 00-R-0772 34. 00-R-0773 35. 00-R-0774 36. 00-R-0783 37. 00-R-0784 38. 00-R-0785	39. 00-R-0775 40. 00-R-0776 41. 00-R-0777 42. 00-R-0778 43. 00-R-0779 44. 00-R-0780 45. 00-R-0781 46. 00-R-0782 47. 00-R-0786 48. 00-R-0787 49. 00-R-0788 50. 00-R-0789 51. 00-R-0790 52. 00-R-0791 53. 00-R-0792 54. 00-R-0793